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09/807,011

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Philippe Letellier

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EXAMINER

CAO, DIEM K

ART UNIT

PAPER NUMBER

2126

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/807,011 | LETELLIER ET AL. | |
| | Examiner | Art Unit | |
| | Diem K Cao | 2126 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-13 are pending in the application. Applicant has amended claims 1, 3, 8, 9 and added claims 10-13.

Claim Rejections - 35 USC § 112

2. Claims 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10-13 recite the limitation "the application management module". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karlton et al. (U.S. 5,802,284) in view of Menand et al. (U.S. 5,563,648).

5. **As to claim 1**, Karlton teaches a device for managing an application (set-top software environment for set-top computer 112; col. 4, lines 48-50), an application management module (Application manager 302, a script interpreter 306; col. 4, line 48 – col. 5, line 8) which can

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execute at least one management instruction set (executable file 402, a script; col. 6, lines 1-19), the management instructions modifying via functions the state of the device (display the name of selected viewer application or a short movie, retrieves the selected viewer application; col. 5, lines 20-31) before the running of an application (When a viewer application ... has successfully downloaded; col. 5, lines 20-34), the management instructions being executed before the launching of the application and/or at the end of the running of the application (the executable retrieves ... and launches selected viewer application; col. 6, lines 1-9. The examiner interprets the limitation as "or" scenario for rejection purpose.), the management instructions being provided by an external source such as a broadcast network (download the cover bundle; col. 5, lines 59-64) or user command instruction means (user input, user changes channel; col. 2, lines 8-27).

6. However, Karlton does not explicitly teach an execution system, an operating system, and access the resource of the device. Menand teaches an execution system (interpreter; col. 4, lines 62-67), an operating system (central processing unit; col. 3, lines 15-21), and access the resource of the device (An audio processor 418 ... I/O adapter; col. 3, lines 22-36 and Each hardware adapter ... which is a system loader; col. 5, lines 32-47).

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Karlton and Menand because it provides a method to maintain proper synchronization between the applications, and the sound and graphics being generated by the application and the audio and video components being received.

8. **As to claim 2**, Karlton teaches the functions of the management instructions cannot be executed by the operating system or the execution system (If an executable file is found, it is launched by application manager ... executes the script; col. 6, lines 1-15).

9. **As to claim 3**, Karlton teaches means for loading the management instruction set from a source of management instruction to the application manager (application manager downloads that application ... requests the cover bundle, which in turn retrieve the view application; col. 5, lines 17-34).

10. **As to claim 4**, Karlton teaches the source of the management instruction is the application (a view application employs a cover bundle; col. 5, lines 20-22).

11. **As to claim 5**, Karlton the source of the management instructions is the user interface (the cover application may also be responsive to user input; col. 2, lines 18-34).

12. **As to claim 6**, Karlton teaches the device possesses a standard management instruction set in memory (Application manager ... terminating all other resident applications; col. 4, lines 60-64).

13. **As to claim 7**, Karlton does not explicitly teach the application manager comprises several sets of management instructions originating from several sources of management

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instructions, a specified management instruction set being assigned to each application.

However, Karlton teaches there are multiple viewer applications, and each viewer application might employs a cover bundle (Viewer application ... at a time; col. 4, line 65 – col. 5, line 2 and a view application employs a cover bundle; col. 5, lines 20-22), and the application manager executes the executable file in each bundle (If an executable file ... manager; col. 6, lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to improve the system of Karlton to have the application manager to comprise those bundles after being download to the set-top computer because it would improve the performance of the system by execute from the same application.

14. **As to claim 8**, Karlton does not teach wherein binary priority indicators are associated with the management instructions, the applications manager executing first the management instructions whose priority is the highest. However, Karlton teaches there are multiple applications in the set-top computer and only one application is executed at a time, and the application selected by the viewer via the remote will be executed immediately, i.e. the instruction (task) from the user to the device has the highest priority and being executed first. It would have been obvious to one of ordinary skill in the art to apply priority to applications in order to decide which application to execute.

15. **As to claim 9**, it corresponds to a device claim of claim 1, and is rejected under the same ground of rejection.

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16. **As to claim 10**, Karlton and Menand do not explicitly teach if several management instruction sets can be applied to an application before the launching of the application, the one with the highest priority being used by the application manager. Karlton teaches a cover bundle is applied to an application before the launching of the application (the executable retrieves ... and launches selected viewer application; col. 6, lines 1-9). Menand teaches viewers can change channels at any time and the new program will be executed (col. 6, lines 5-30). It would have been obvious when the viewer changes the channel, instruction to end the current application will have the higher priority than the instruction to execute the cover bundle.

17. **As to claim 11**, Karlton and Menand do not explicitly teach a management instruction contains the priority of an application, at the reception of such instruction, the application manager modifying the priority of the applications executed in the device. However, Karlton teaches upon selection of a viewer application by the user (col. 5, lines 22-31), the cover bundle and the viewer application will be played by the application manager (col. 6, lines 1-9). It would have been obvious to one of ordinary skill in the art, the task generated by the user action is managed by the Operating System, and each task has its own priority for execution in the system. By playing the movie after user selection, inherently, the viewer application has the highest priority of all other applications.

18. **As to claim 12**, Karlton and Menand do not explicitly teach the application manager allows a resource of the device to the application having the highest priority. Menand teaches the resource is allocated to the program that has been selected by the viewer (col. 6, lines 3-21). It is

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obvious to one of ordinary skill in the art that the application selected by the user (user changes channel) has the highest priority.

19. **As to claim 13**, Karlton and Menand do not explicitly teach a management instruction contains an identifier of an application, at the reception of such instruction, the application manager applies this management instruction to the specified application. Karlton teaches the management instruction retrieves the selected viewer application (when the user selects a viewer application ... retrieves the selected viewer application; col. 5, lines 22-25). It would have been obvious the management instruction (cover bundle) should have the identifier of the application in order to retrieve it.

Response to Arguments

20. Applicant's arguments filed 9/16/2004 have been fully considered but they are not persuasive.

21. In the remarks, Applicant argued in substance that (1) Karlton and Menand do not teach modifying via functions the state of the device before the running of an application executed by the operating system and/or execution system, (2) Karlton does not teach the launching of an application does not depend on the management instruction being provided by an external source, (3) Karlton does not teach the set top box has default parameter that is replaceable by management instruction being provided by an external source such as a broadcast network or user command introduction means, and (4) Karlton does not teach the management instructions cannot be executed by the operating system or the execution system.

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22. Examiner respectfully traversed Applicant's remarks:

As to the point (1), Applicant discloses the definition of the limitation "modifying via functions the state of a device before running of an application and/or at the end of the running of the application" on page 11, line 5 of specification, and again on page 7, lines 16-22 of amendment as "the application is being initiated, an instruction set must be applied". Karlton teaches when the user selects a viewer application, the associated cover bundle is displayed first while the application being download. Though, playing the cover bundle and download the viewer application has change the state of the device (from whatever task was executed before). Therefore, Karlton teaches the limitation.

As to the point (2), Karlton teaches the cover bundle retrieves the viewer application, the application manager launches the viewer application after the download is completed. Therefore, Karlton teaches the limitation.

As to the point (3), the limitation argued by the Applicant is not in the claim (the default parameter is replaceable). Applicant only claims "the device possesses a standard management instruction set in memory". All the device should possess a standard instruction so it is operable.

As to the point (4), Applicant did not give any reason/explanation why the cited passage provided by the examiner in the last Office action does not meet the claim language. Therefore, the previous rejection is maintained.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Matsumoto (U.S. 5,835,765) teaches "Computer Operation management system for a computer operating system capable of simultaneously executing plural application programs".
- Mackinnon (U.S. 6,016,158) teaches "Object oriented communication network".
- Hendricks (U.S. 6,463,585 B1) teaches "Targeted advertisement using television delivery systems".

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diem K Cao whose telephone number is (571) 272-3760. The examiner can normally be reached on Monday - Friday, 8:00AM - 3:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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